

1 brought in as a workout specialist and placed in charge of
2 the day to day operations of the station.

3 Q In that capacity, did you have any role vis-a-vis
4 the station's ascertainment process?

5 A Yes, I did.

6 Q What role was that?

7 A Well, in terms of the overall authority to people
8 under me, George Maffmiller, I would have to say I delegated
9 to him the point position there. He had under him a Roger
10 Tobias, Dan Vendetti (phonetic), and Kim Bradley in various
11 functions of that. But I would have to say that I have
12 always tended to be, in whatever operation I am in, the guy
13 that deals with, like, the Chamber of Commerce types. And
14 the people at the station under me, if you will, have dealt
15 with the community agencies like the Red Cross -- all of
16 your various nonprofit agencies, most of which have their
17 boards of directors at the chamber levels.

18 A lot of times you get a chamber guy who will come
19 up to you or some business leader in the community and says,
20 look, we are working on a United Way campaign, can you help
21 us out with it. And then I would refer them to either
22 George or one of the people under him, depending on who was
23 present at whatever particular time. Mostly it would be to
24 George Maffmiller, however, and have him assist in those
25 areas.

1 Q In August '89, you then were making the contacts
2 in the Reading community?

3 A Yes. In fact, when I first came to Reading, Dr.
4 Aurendt, Jack Linton, Dr. Clymer, Irv Cohen, Dr. Clymer's
5 wife, Dr. Fischer and Dr. Fischer's wife Noni, they really
6 set out on an organized effort, if you will, to introduce me
7 to the community and to what you would call the movers and
8 shakers in the community who in the end result, on a
9 community basis, end up being the movers and shakers in what
10 I would call the nonprofit community or public service
11 areas.

12 And then I was introduced, as an example, Jack
13 Linton, the city solicitor. So I was introduced to the
14 mayor. I was a former mayor of Tacoma, Washington. So the
15 mayor and I kind of hit it off. And then I was introduced
16 to a whole host of other people within the community.

17 So I guess the way I would explain it is I was
18 enmeshed in the community very quickly.

19 Q So your contacts would primarily be in the
20 governmental area and the business community?

21 A Yes. And then from that, I met a lot of people in
22 the nonprofit areas. But I would say most of my personal
23 associations came from the business leaders who were on the
24 boards of those various entities. As an example, I came to
25 meet Frank McCracken as a result of one of our staff people

1 knowing Frank. And then I believe Irv Cohen told me that he
2 was one of the people I should meet because Irv had donated
3 money to the police athletic league. So it kind of just
4 mushroomed out from there.

5 Q Focusing on ascertainment as something perhaps
6 discrete from the contacts that we have been talking about,
7 did you in fact try to determine from these various contacts
8 what the community's problems, needs, and interests were?

9 A I have to say yes because I was used to the old
10 ascertainment where you call people in and you interviewed
11 them. In fact, when I was mayor, I have been interviewed
12 many times by TV stations and radio stations in terms of the
13 old ascertainment system. And so what happened is when I
14 was introduced into the community, right away you are just
15 used to doing that, I guess. I was on the other side of the
16 street for a change. But the first thing I would be asking
17 is, well, what are the community problems here, and you get
18 phone calls from people.

19 I remember getting one on the chuck hole problem,
20 that everybody was upset about chuck holes. In fact, one
21 lady got her chuck hole fixed because she called me and I
22 called the mayor. But it was -- I don't want to make light
23 of it. It was just kind of a natural thing of knowing your
24 ascertainment requirements, meeting community leaders, you
25 start asking about community problems and community

1 opportunities.

2 I'm an activist type. The city, when I got there,
3 was looking at doing a convention center. And I as mayor of
4 Tacoma had built a \$44 million sport and convention center.
5 So I kind of became a resource for the mayor and some of his
6 staff members in terms of how to go about solving problems
7 like site problems. Nobody -- everybody loves a convention
8 center. Nobody can agree on where to build it. And so we
9 chatted about things like that on a regular basis.

10 Q Just to take that as an example, approximately
11 when did that come to your attention as a community problem
12 or concern or interest?

13 A Well, it was more of a -- it wasn't a problem. It
14 was kind of an interest. The state was appropriating money,
15 I think almost from the beginning. But I really got more
16 involved in it after Frank McCracken was appointed to the
17 city council, which was several years later. I don't know
18 the exact date that he was placed on the council. But then
19 they were talking about siting and what would be in the
20 convention center. There was also state funding that was
21 being acquired for it. And all -- I don't want to overstate
22 my activity level. I was more just -- people would call me,
23 and I was a sounding board for it because I had gone through
24 it. But I was not a committee or anything like that.

25 Q Yes. My particular concern is whether WTVE TV

1 ever aired a programmatic response.

2 A Yeah. In fact, we had a regular -- I think in our
3 presentation, we had a program that was called, "Minutes
4 with the Mayor," where we had the mayor come in and do on
5 various issues like a 60 second, 90 second, I think
6 sometimes a little longer, spot that we could play
7 throughout the day.

8 Q So the subject of a convention center went out
9 over the air during one of these 60 seconds?

10 A I am sure that that is the case. I don't remember
11 the exact date. But that was -- that was a key issue. But
12 there were other things, crime, drugs. The mayor's minutes
13 tended to reflect whatever was going on in the newspaper or
14 in the community at that particular time. He was -- he
15 tended to focus on what was going on right then.

16 Q Were the problems, news, and interests that came
17 to your attention as a result of these conversations ever
18 tabulated in a systematic way?

19 A Now if you are talking about -- they did -- George
20 did the -- was the person primarily responsible for the
21 quarterly reports and that.

22 Q I am not talking about the quarterly reports at
23 this point. I am talking about something that would have
24 been more basic, that would have been trying to determine
25 what the problems were in the first instance before noting

1 at a later point in the quarterly report what you had
2 actually done to address that problem.

3 A Well, if you are asking did I sit down and
4 tabulate out myself in those areas, no.

5 Q Did you direct anybody to do so?

6 A Well, I guess the answer to that is no in the
7 sense of directing them to tabulate a report. I gave that
8 area of responsibility to George Maffmiller who, just
9 knowing George, is far more detailed oriented than I am. He
10 may well have done that. But it wasn't at my specific
11 direction.

12 Q Well, I mean, was a document ever produced for
13 your review that indicated or reflected that community
14 problems had been tabulated in some systematic way so that
15 the station knew what the most significant problems were?

16 A Not that I recall. But that doesn't mean that
17 George didn't do it. I just don't recall ever reviewing it
18 myself, no.

19 Q Were you aware, you know, that a station policy
20 was already in place when you arrived that called for that?

21 A Well, now wait a minute, let me back up a second
22 because I may be wrong. I was fully aware of activity or
23 the example that Kim Bradley had the master control people
24 clipping the newspaper on a regular, systematic way.

25 Q Okay. Listen to what I am asking. I am not

1 asking whether the basic underlying data was clipped out or
2 whether people had a conversation. It is when you actually
3 got this information, did anybody ever sit down and look at
4 it and say, oh, okay, here is a problem that is noted 15
5 times by 15 different people; yeah, it is probably pretty
6 significant. Did anybody do anything like that?

7 A I don't -- I don't think they did it, and again,
8 not to my knowledge.

9 Q And apparently not at your direction either?

10 A Not in a direction in the overall basis. As I
11 said, I really put that area in George Maffmiller's hands.
12 And so he had overall authority, if you will, in that area.

13 Q Now I want to direct your attention to -- it is
14 Adam's Exhibit 17. Your counsel will bring you a copy of
15 it. You don't have it up there yet.

16 A Okay.

17 Q And the document that I am going to be referring
18 to, just to give you an idea of what it is that you are
19 looking at, you go to the first page, the document that
20 follows is represented as part or all of, I'm not sure
21 which, a March 29, 1993, filing by Reading Broadcasting,
22 Inc., in an FCC rulemaking proceeding regarding must carry
23 of home shopping network stations.

24 A I'm sorry. Do I have the same thing? I have an
25 appendix A somebody just --

1 MALE SPEAKER: You are talking about 16, actually,
2 right?

3 MR. SHOOK: I have 17 written down here.

4 MALE SPEAKER: We have 16.

5 MR. SHOOK: Okay. Well, anyway, I am talking
6 about the binder. Do you want the binder?

7 MALE SPEAKER: The binder is the appendices.

8 THE WITNESS: My second page is Appendix A.

9 MR. SHOOK: Right. I am not interested in the
10 pleading. It is the appendices that I am interested in.

11 THE WITNESS: All right.

12 BY MR. SHOOK:

13 Q It just that when I looked to see what it was,
14 these are part of the documents. Anyway, the part that I am
15 referring to begins at the page that has handwritten No. 270
16 on it on the bottom.

17 A 270?

18 Q Yes.

19 A Okay, yes.

20 Q Do you see it refers to community ascertainment?

21 A Yes.

22 Q And that is for the fourth quarter of 1992?

23 A Yes.

24 Q Now if you turn the page to the page numbered

25 271 --

1 A Yes.

2 Q It reflects community ascertainment that took
3 place between October 1 and December 31, 1992.

4 A Yes.

5 Q Now all of the dates referenced there reflect
6 activity on your part, correct?

7 A That is correct.

8 Q Conversations with various individuals who are
9 involved in the Reading area, correct?

10 A That is correct.

11 Q All right. You want to take a look at the --

12 A Well, the Reading area and Philadelphia. Judge
13 Rose is listed here.

14 Q Right. When I said Reading area, I am basically
15 thinking of the viewing area, not just the Reading community
16 itself, but the viewing area.

17 A Yes.

18 Q Looking at the first heading that is noted there,
19 your conversation with Rev. Frank McCracken --

20 A Yes.

21 Q The first topic that was discussed, it appears to
22 be lack of youth facilities for recreation. Is that what
23 you have got?

24 A Yes. I am with you.

25 Q Now is there a programmatic response to that

1 problem so far as you know?

2 A I believe so. I don't remember the exact date of
3 it in time. But as I stated, Mr. Cohen made a rather large
4 gift. And part of that was for a new recreational facility,
5 I believe, for -- through the police athletic league, which
6 I described earlier is much like the Boys Club.

7 Q Now about when did that take place?

8 A I'm not sure. It would have been after this,
9 after 1992. But I know their board was raising substantial
10 funds at the time, and we did a lot of public service
11 announcement for the police athletic league.

12 Q And with respect to that particular problem, what
13 I would like you to do is -- I guess you are going to need
14 your counsel's help on this. It is Reading Broadcasting,
15 Inc. I believe it is Exhibit 8, tab P. It appears in the
16 fourth volume of hearing exhibits. And the numbered pages
17 that I want you to look at -- well, actually, it is just
18 page 12. If I am reading this correctly, page 12 is
19 supposed to be the station's programmatic response and
20 responses to concerns of youth for the fourth quarter of
21 1992.

22 A Yes.

23 Q Now help me if I am wrong, but in reviewing this
24 list, I don't see anything here that addresses a lack of
25 youth facilities for recreation.

1 (Witness reviewed document)

2 JUDGE SIPPEL: We can go off the record.

3 (Off the record)

4 THE WITNESS: I don't see the answer to your
5 question, that there was a specific thing specifically in
6 response to that. I would think, one, from the station's
7 area, we did do a series on the museums and so on in the
8 community, which are activities that are available for youth
9 in the community. But in addition, we started a program,
10 which I think on page 27 is referred to again, that again
11 started recruiting kids to work on a television project
12 within the station which provided youth opportunities.

13 In fact, my own children were on that -- what
14 followed on from the beginning of this project. And I don't
15 want to infer that conversations held in October would turn
16 around and turn into something in that quarter. In most
17 cases, I would think that it would come later on.

18 BY MR. SHOOK:

19 Q How much later on would it?

20 A Again, it isn't like -- at least my experience, it
21 isn't like you go out and talk to somebody today about
22 something and immediate -- you get an immediate response to
23 it. It happens more over time. And I think if you look at
24 the whole record for this station in terms of our public
25 involvement, it increased, even at a time when we were

1 increasing the total numbers of employees.

2 And again, George Maffmiller and his staff were
3 more heavily involved in this. I was far more heavily
4 involved in the financial end and reorganization end of
5 bringing us out of bankruptcy, especially in the early days
6 of this time period.

7 Q Well, I want to stop you there for a second. This
8 filing that was made with the Commission, when I read it, I
9 get the feeling that on the whole one of the things that
10 Reading Broadcasting, Inc. is trying to demonstrate for the
11 Commission is that it is a good corporate citizen of
12 Reading, notwithstanding the fact that it is a home shopping
13 network.

14 A Oh, we're a good corporate citizen and --

15 Q Now with that premise in mind, and one of the
16 reasons for that premise is that when you look at community
17 ascertainment, there is a reflection here that the president
18 of the company, you, is out talking to local community
19 leaders trying to get a handle on what the local community
20 problems are. That is accurate, isn't it?

21 A Oh, absolutely.

22 Q And in our experience, one of the things that we
23 have noted over time is that following these community
24 ascertainment efforts, there is a programmatic response of
25 some kind. And so my question initially with respect to

1 this matter was simply to try to find out whether during the
2 fourth quarter of 1992 there was a programmatic response to
3 the problem that you noted as having been ascertained on
4 October 15, 1992.

5 A Well, I think -- you took recreational facilities.

6 Q Right. I took the first one on the list.

7 A I don't see that there was a programmatic response
8 directed directly at these facilities. But I do see that
9 there was in the area of drugs, there was in the area of
10 crime.

11 Q Well, we'll get to those.

12 A Okay.

13 Q We'll get to those. Considering, or taking into
14 account your response that it is not necessarily going to
15 happen in the same quarter that you have a programmatic
16 response, I wanted you to take a look at -- I guess it is
17 attachment Q to that same exhibit, which appears in the next
18 volume. And the concerns of youth are reflected on pages
19 12, 13, and 14. My question is, is there a programmatic
20 response in the first quarter of 1993 which addresses the
21 lack of youth facilities for recreation?

22 (Witness examined document)

23 JUDGE SIPPEL: Off the record while he checks
24 this.

25 (Off the record)

1 JUDGE SIPPEL: Back on the record.

2 THE WITNESS: Yeah. The only response that I see
3 there is on page -- what is marked 21, where we did a
4 segment with the municipal stadium in terms of Reading
5 wanting -- showing an effort to raise money to rehab the
6 municipal stadium, which is the stadium used by the local
7 baseball franchise. But it is also used by the youth in the
8 community.

9 BY MR. SHOOK:

10 Q Please tell me what they say. I am not following
11 where you are.

12 A It says --

13 JUDGE SIPPEL: Page 21 of tab 2.

14 THE WITNESS: Up at the top, it says, "News Team."

15 MR. SHOOK: I see.

16 THE WITNESS: That's the only segment that I see
17 that would be responsive to that.

18 BY MR. SHOOK:

19 Q Municipal Stadium, that's a facility that is in
20 Reading itself?

21 A That is correct. And it is utilized by the local
22 baseball franchise, but also by the kids in the community.
23 And they have had an effort underway to rehab that facility.
24 It has been on an ongoing basis for a number of years.

25 Q So municipal stadium is the home base for the

1 Reading Phillies?

2 A That is correct.

3 Q And with respect to the second problem that you
4 and Rev. McCracken spoke about, the same questions, looking
5 at both attachments P and Q. What if any were the
6 programmatic responses of the station to the problem of the
7 drug problem on the streets and how to get control of it?

8 (Witness examined document)

9 THE WITNESS: If you go under -- oh, I'm sorry.
10 If you go under "concerns for youth," there are about three
11 or four different PSAs that we ran on things like
12 encouraging parents and teachers to talk to their children
13 about drugs, gangs, and other detrimental forces, talking
14 about the problems of drug and alcohol abuse and prevention.

15 BY MR. SHOOK:

16 Q Okay. Are you referring to something specific?

17 A Well, if you -- we did a PSA for the Reading Lions
18 that dealt with drugs and alcohol prevention. We did a --

19 Q So you are on page 12?

20 A Yes. The hard talk PSA dealing with parents and
21 teachers talking to their kids about staying off drugs,
22 gangs, other detrimental forces. The PSA entitled -- it is
23 titled, -- affidavit No. 37, talking about drinking, drugs,
24 and AIDS-related PSA. And I'm not sure, but I believe it
25 was during this time, too, that Rev. McCracken was running a

1 program in the community to take the streets back from --
2 the community streets back from -- basically, it was to get
3 the crack dealers and drug dealers off the streets.

4 And I believe that some of the, "Minutes with the
5 Mayor" dealt with that subject. I may be off by one
6 quarter, though, on when that happened. But it was during
7 this time frame.

8 Q So if the record reflects such, that is --

9 A The record may not reflect that because, like I
10 said, they would have been in the, "Minutes to the Mayor"
11 program, and I didn't see and hear where they specifically
12 broke down the category of his discussions. It wasn't a
13 special program of ours.

14 Q Just so you realize that what you are looking at
15 in particular is only focused on that past quarter of 1992,
16 and we do have a lot of other material.

17 A I understand that. And I have to again, during
18 this particular time, I was much more heavily involved in
19 other areas of the station of the station than I was
20 specifically in the sponsor's and in the community service
21 area.

22 Q Well, considering that the document that we looked
23 at initially, that page 271 of Adams 17, was reflecting your
24 activity in the community, I was trying to see whether as a
25 result of your activity in the community and your

1 ascertaining or your coming to knowledge of various
2 community problems, whether or not there was some
3 programmatic response.

4 A Yes, I understand. I understand what you are
5 saying. And this -- these conversations and meetings took
6 place, and I am sure they were, in looking at this, at
7 George Maffmiller's request, and at his formulating and
8 forming and making sure that we covered those areas. In
9 other words, he would have arranged appointments for me when
10 I was in town to meet with these people and discuss
11 community issues.

12 Q And so at least in terms of the drug problem on
13 streets and how to get control of it, you are referencing at
14 least the three PSAs that appear on page 12 --

15 A Yes.

16 Q -- of attachment P to Reading Exhibit 8 as
17 examples of how the station responded.

18 A That is correct.

19 Q Moving on to October 22, your conversation with
20 Mr. Linton, the first reference there is to crime and other
21 problems as a result of unemployment. Could you tell me
22 during the fourth quarter of 1992 whether there was any
23 programmatic response by the station to that problem?

24 A Yes. In fact, if you look on page 13, we
25 produced, scripted, and edited at WTVE weekly this 30 second

1 PSA to alert our viewers to be on the lookout for criminals
2 whose whereabouts are unknown that are potentially thought
3 to be in the station's coverage area.

4 Q So what you are referring to there is the
5 Pennsylvania Crime Stopper's PSA?

6 A Yes, that is correct.

7 Q Is there anything else?

8 A Just go back to the hard talk youth concerns spot
9 as well again, where we were encouraging parents and
10 teachers not to turn their backs on teens and talk about
11 drugs, gangs.

12 Q And that appears on page 12?

13 A That is correct. And --

14 JUDGE SIPPEL: We can go off the record.

15 (Off the record)

16 THE WITNESS: It wasn't always dealing with crime.

17 BY MR. SHOOK:

18 Q So the two you made reference to were the
19 Pennsylvania Crime Stoppers PSA that appears on page 13 and
20 the Hard Talk PSA that appears on page 12.

21 A That is correct.

22 Q Moving on to the next issue, including the city's
23 industrial base.

24 A Yes.

25 Q What was the station's programmatic response, if

1 any, to that problem or concern?

2 A There we get a -- WTVE produced a 30 second PSA to
3 boost the city's pride. We actually showed the city of
4 Reading at work with cuts to factories and offices, and we
5 had the mayor deliver the message that everyone must
6 continually strive and work together to make Reading a
7 better place. That was specifically directed toward
8 promoting the city's base. And I believe we also --

9 Q And you are referring -- before I -- before you go
10 on, you are referring to something in particular? You are
11 looking at something?

12 A Yeah, on page 19. I'm sorry. Working for a
13 Greater Reading, No. 17 under issues. And then it shows
14 municipal and civil concerns.

15 MR. SHOOK: I see.

16 JUDGE SIPPEL: You are back to tab P, right, of
17 Exhibit 8?

18 MR. SHOOK: Yes, Your Honor. That is where we
19 are.

20 JUDGE SIPPEL: Thank you.

21 BY MR. SHOOK:

22 Q Now other than working for Greater Reading PSA,
23 was there any other programmatic response?

24 A I believe there was also a -- I want to make sure.
25 Did you say programming response?

1 Q Yes.

2 A Out of this, we also developed, like, a corporate
3 video, I believe, for use in the community. It may have
4 been broadcast, but it may not have as well. But I know it
5 was used extensively by chamber types and by the city when
6 they were trying to entice businesses into the community.
7 And it came out of this PSA. A lot of the same footage was
8 used in it.

9 Q Can you put a time frame on that?

10 A It was about a 30 minute, I believe -- no.

11 Q No. In terms of when this videotape that you are
12 referring to --

13 A I think we still use it.

14 Q -- was made.

15 A Right around this time. But it may have been
16 later than this particular quarter. But some of the same
17 footage that is in this PSA is in that presentation.

18 Q Moving on to the next conversation, this would
19 have been the one you had on the telephone with the Mayor of
20 Reading, Mr. Haggerty (phonetic). There were four topics
21 that you discussed. Why don't we just -- you can take all
22 of them. Did the station have any programmatic responses to
23 any of those topics?

24 A Well, I believe again the Working for Reading that
25 we talked about PSA deals with the state of the economy.

1 And it was focused on getting people to improve the city's
2 image on the basis of getting people here to stay in the
3 community, existing businesses, and businesses back to the
4 community, or not back but recruiting. We're trying to put
5 a positive image on the community.

6 (Witness examined document)

7 JUDGE SIPPEL: Off the record.

8 (Off the record)

9 THE WITNESS: I don't see that we addressed the
10 issue of unemployment or low income housing. Again, I think
11 we addressed the state of the economy and bringing
12 businesses and homeowners back to the city.

13 BY MR. SHOOK:

14 Q Through the PSA that you referred to.

15 A Yes.

16 Q Moving on to your November 24 conversation with
17 Judge Rose, there were four basic topics discussed.

18 A Again, I don't think we dealt with housing. We
19 did deal with crime.

20 Q And that you are referring to, at least in part,
21 the Crime Stoppers PSA?

22 A That is correct. We also, in terms of crime, did,
23 on page 16, some PSAs in search of missing children, which I
24 think would fit in the crime category.

25 JUDGE SIPPEL: Is that 16 of P or 16 of Q?

1 MR. SHOOK: That would be 16 of P, Your Honor.

2 JUDGE SIPPEL: What is it called, "In Search of
3 Missing Children"?

4 MR. SHOOK: Yes, sir.

5 JUDGE SIPPEL: I see it.

6 (Witness examined document)

7 THE WITNESS: I think some of our kids -- Candid
8 Kids Club, that's on page 7, dealt with education, trying to
9 encourage kids to, you know, pursue their education. Then
10 on page 14, there are several PSAs there that focused on
11 teaching someone else to read, on English, in terms of
12 people trying to get a better command of English.

13 BY MR. SHOOK:

14 Q So you are referring to the two PSAs that appear
15 under the education issue.

16 A That is correct. And as I said, I don't think
17 that we were responsive to unemployment.

18 Q Now finally, with respect to December 9, the
19 responsibilities of educators I take it addressed in at
20 least a general fashion in what you just referred to?

21 A Yes.

22 Q The education PSAs?

23 A And I think there was that drug issue also, where
24 we would encourage teachers to become involved in letting
25 their students know about the problems of drugs, gangs, and

1 so on.

2 Q Well, why don't you refer back to page 12 of
3 attachment P and point out to me what it is you were
4 thinking of there.

5 A That is the Hard Talk PSA, I'm sorry, which dealt
6 with urging parents and teachers not to turn their backs on
7 teens and to give them straight talk about drugs, gangs, and
8 other detrimental forces in the community.

9 Q Now finally, we have reached the global economy.

10 A I haven't seen anything in here that addressed the
11 global economy.

12 Q Now in going over what we just did, it strikes me
13 that to the extent these matters are addressed, the station
14 tends to address them via PSA. Would that be an inaccurate
15 or fair assessment?

16 A I would think that we did have some programs of
17 longer length, but our primary focus was on PSAs. That is
18 correct.

19 Q Why did the station choose to try to address these
20 programs via PSA rather than through something longer, where
21 there was more discussion of the problem?

22 A Well, really, there are basically two reasons for
23 that. One is that I -- and I will put it this way -- when
24 our staff did longer programming -- and I'll give you a
25 specific example because the other night I turned the

1 History Channel on and saw a piece the History Channel did
2 on the switchback railroad, and about half of the footage
3 was from our program that got the award from Pennsylvania
4 Association of Broadcasters that our station did. So I had
5 kind of a pride feeling about that in terms of what our
6 staff had done that it made the History Channel.

7 But primarily, you look at this point of time, we
8 were running home shopping as a format. And if you have
9 ever been involved in preempting programming of any kind on
10 any station, unless it is a regularly scheduled program that
11 people are used to, you get far more calls from the
12 preemption than you do from your normal programming, unless
13 it's something like the Super Bowl. But even then, you
14 would get people calling and complaining if you preempted
15 their programming.

16 And home shopping listeners in the universe of
17 listeners that we had at this point, I don't think people
18 understand how many people watch home shopping. We had in
19 the Reading area over 58,000 people that made a purchase of
20 home shopping within that, I believe, 1989 year, and it grew
21 from there over the time that we are covering in this re-
22 licensure.

23 Q Let me interrupt just a second so I understand
24 what you are saying. Were you saying that there were 58,000
25 transactions during the calendar year 1989, or there were

1 58,000 different households or people --

2 A No, transactions. Home shopping estimated that
3 about 15 people watched for every transaction they had. So
4 it was a substantial number. And they tend to be elderly
5 people, at least in Brooks County area. And it tended to be
6 elderly people would watch on a regular basis. It is more
7 effective, in my opinion, to approach community issues on
8 the PSA format than it is having a talking head half-hour
9 with the Mayor because people would watch the PSA. They
10 will turn the channel if you go a half hour format.

11 Likewise, I also have to be realistic. I had a TV
12 station that was in bankruptcy, and I needed every dollar
13 that it could get. So if you had an economic sword on one
14 side in terms of the expenditure of resource, and on the
15 other side the audience that was looking at it was better
16 served in terms of issue awareness by the shorter term PSA
17 than it would be in a long form programming, albeit we did
18 both.

19 Q When you were going to run longer form
20 programming, if I understood you correctly, you would have
21 to preempt Home Shopping Network?

22 A Well, I think we did some on a regular schedule
23 basis. So I don't say we didn't do any long form
24 programming. We did. But if I went beyond what we did on a
25 regular basis, I would have to preempt. But the other thing

1 was that it simply was -- the organizations we served with
2 our PSAs were better served with PSAs than if we had given
3 them a half hour program. More people were exposed to their
4 issue or their concern on the short term than they ever
5 would have been on a long term program.

6 Q And the basis for that judgment is what?

7 A I guess my experience and the experience of
8 others. A lot of people run issues programming, but what
9 are they running, they run it on Saturday morning when most
10 people aren't watching it. The reality is that if you
11 really want to serve the public, you get out there issues
12 and concerns during the time they are watching programming,
13 and in a time span that they are not going to change the
14 channel and they get exposed to it.

15 I guess if anything my experience in politics
16 taught me that. You are far better doing a 30 second
17 commercial than put on a half hour as a candidate.

18 Q What kind of relationship did the station have
19 with The Reading Eagle?

20 A In terms of -- I think some of the staff members
21 had close friends there. And they -- I'm trying to think.
22 At various periods of time, they cooperated in community
23 efforts. I'm not sure during this specific quarter or when,
24 but just over the course of time I know that there were
25 community events that we both participated in. But in terms

1 of a formal relationship, I am not aware that there was one
2 on a long term basis.

3 Q In fairness, the focus of my question was the
4 license term. I wasn't --

5 A I understand that. But I can't remember
6 specifics, other than I know that some of the people at
7 Reading either were friends or staff members at the station.
8 And there was exchange of information. And I always
9 encouraged our people to be active and involved in the
10 community. And I know that there were people at The Reading
11 Eagle who were active and involved, so they rubbed shoulders
12 a lot.

13 Q Did you personally have any involvement or
14 relationship with personnel at The Reading Eagle?

15 A I think I met the publisher on one occasion. In
16 fact, when I first came to the community, I went -- was
17 introduced to him in his office.

18 Q Did it ever come to your attention that the
19 Reading Eagle was not putting into its TV listings what it
20 was that your station was doing?

21 A Yes.

22 Q Approximately when did that occur?

23 A From day one.

24 Q And what did you do about it?

25 A We attempted to get listed on an ongoing basis.

1 And they would not do that mainly because we were running
2 home shopping.

3 Q Not even to tell the viewing public in the area
4 that you were running home shopping?

5 A That's -- they were not willing to do that.

6 Q Now did that ever change?

7 A Not during the license period. But when we
8 changed formats, virtually all of the -- or George, Mr.
9 Maffmiller, who you have all met, is extremely good at
10 getting into the newspaper once we changed formats. And so
11 it wasn't our inability, as an example, to provide the
12 information to the services that do this for the newspapers.
13 It was simply their unwillingness to carry home shopping in
14 the paper.

15 Q Now did you have some understanding about what
16 regularly scheduled programming the station was running
17 other than home shopping network during the 1989 to 1994
18 license term?

19 A Yes. I would have been involved in what was
20 running on the station, other than that.

21 Q What I am getting at is what your understanding
22 was as to the existence of programs of 30 minutes in length
23 or an hour in length that ran with some regularity during
24 the license term? You would have been aware that such
25 programs were airing?

1 A Yes.

2 Q It is my understanding that the information
3 concerning those programs didn't make it into The Reading
4 Eagle either.

5 A No. And I -- in fairness to The Reading Eagle, I
6 want to go back to the process, you know. You provide this
7 information to a service that then provides it to the
8 newspaper. And I can't tell you whether it was a Reading
9 Eagle decision or that service's decision that they wouldn't
10 do it. But clearly, my experience in niche programming is
11 that it is very difficult -- that it is one of the major
12 battles. It is like cable coverage. Those are major issues
13 that you have to work on constantly, and you celebrate when
14 you're successful because most of the time you feel you
15 won't be. And we just were never able to crack that to make
16 it into The Reading Eagle, until we changed formats.

17 MR. SHOOK: Your Honor, I have nothing further of
18 this witness.

19 JUDGE SIPPEL: Okay. What do we have for
20 (inaudible) documents?

21 MR. BECHTEL: I had one document. I just assumed
22 that I would defer to Mr. Cole, who came up with that
23 document on his own in light of what Mr. Shook asked on the
24 zoning matter. So I am not going to -- I have nothing
25 further.

1 JUDGE SIPPEL: Can we finish this before we go
2 into redirect?

3 MR. HUTTON: The document?

4 JUDGE SIPPEL: I mean, I am saying -- well, yes,
5 right, just as well, if we get this finished up then you can
6 go into redirect on all of it.

7 MR. HUTTON: Sure, sure.

8 JUDGE SIPPEL: Okay. Go ahead, Mr. Cole.

9 BY MR. COLE:

10 Q Thank you, Your Honor. Good afternoon, Mr.
11 Parker. You and I have crossed paths multiple times in the
12 last several years. And I don't think -- you certainly
13 don't need to introduce yourself to me, and I suspect that I
14 don't have to introduce myself to you.

15 A I think it is fair to say I have been keeping you
16 full time employed.

17 Q That is not accurate, but I am sure it is not
18 unfair either. But for the record, I am Harry Cole, and I
19 am co-counsel for Adams Communications. And I want -- and
20 this will be, I hope and anticipate, a very abbreviated line
21 of questioning, just to clarify in my mind about an area
22 that Mr. Bechtel did not cover but Mr. Shook did, and that
23 involves questions relating to RBI's construction permit and
24 the site specified in that permit.

25 Do you recall that testimony?

1 A Yes.

2 Q And help me, please, understand, or make sure I
3 recall that correctly because I was trying to take notes,
4 but I was distracted in the respects. So I am going to ask
5 you if you can confirm that my understanding is right. And
6 again, I am not trying to trick you. I am not trying to
7 misstate. If you hear anything that I say that is not
8 right, please feel free to correct me. I just want to make
9 sure I am starting off on the right track.

10 And as I heard your testimony, RBI's position with
11 respect to zoning of its construction permit site is that
12 RBI as a public utility within the meaning of Pennsylvania
13 law is exempt from any zoning requirements in Earl Township.

14 MR. HUTTON: Objection. I don't think there is
15 any foundation for that question.

16 JUDGE SIPPEL: Well, he is asking if he is
17 paraphrasing, he is accurately paraphrasing, the testimony
18 of the witness. Is that what you are --

19 MR. COLE: Again, this is all just trying to track
20 down what he said.

21 JUDGE SIPPEL: Do you agree with that, that that
22 is essentially what you were saying?

23 THE WITNESS: Well, not quite. Let me clarify,
24 when you say no requirements, you certainly are required to
25 build within the proper building codes, your setbacks and so

1 on. It's the permitted use language that zoning tends to
2 restrict. And I thought about my answer over lunch when I
3 said it wasn't a zoning issue. It is zoning issue. Zoning
4 specifically, like the use, the permitted use, if you are a
5 utility, then it's a permitted use in any zone. So the
6 question -- it is a zoning question in that sense.

7 But the issue revolves around whether Reading is
8 -- or I suppose whether we had the ability to rely upon what
9 the township told us in written and verbal form, the
10 reliance issue, and then the issue of whether we are now by
11 virtue of having a common carrier license and the broadcast
12 license that we have, whether under Pennsylvania law we are
13 a public utility.

14 BY MR. COLE:

15 Q Okay. Point well taken. And I accept that as
16 your objective. Correction well taken. And I may be
17 plowing some of the ground you just re plowed, but bear with
18 me because --

19 A I understand.

20 Q I am going to try to make these fairly short and
21 concise questions. So I think I am correct again in saying
22 that RBI's position again in the Earl Township zoning, using
23 the term zoning as you just articulated it, zoning matter,
24 your position is that if you, that is RBI as a common
25 carrier within the meaning of the FCC's rules -- it is a

1 public utility within the meaning of Pennsylvania law, and
2 therefore is entitled to such exemptions as you have just
3 described.

4 A That is correct.

5 Q And so therefore, if you are common carrier within
6 FCC definition, you enjoy the Pennsylvania exemptions,
7 again, the ones you have just described.

8 A Yes.

9 Q And since April, I believe, of 1997, and the
10 record will correct me if I am wrong -- I think this is in
11 the record -- RBI has held a construction permit from the
12 FCC for paging and radio and telephone service, correct?

13 A That is correct.

14 Q And again, going back to your argument, your view
15 is that that construction permit from the FCC for pager,
16 radio, and telephone makes RBI a common carrier, which then
17 makes it a public utility within the meaning of Pennsylvania
18 law, which then entitles RBI to all of the exemptions you
19 just described under all types of zoning laws.

20 A No.

21 MR. HUTTON: Objection. He is mixing up the
22 township law with state law. We have had a lot of questions
23 about state law, and now he has switched to township law.

24 JUDGE SIPPEL: Well, what is the -- he framed the
25 question the wrong way or he switched subjects with the

1 question?

2 MR. HUTTON: Yes. I think the question was
3 misleading.

4 MR. COLE: I apologize, Your Honor. I certainly
5 wasn't intending that.

6 JUDGE SIPPEL: Well, let's ask the witness. Can
7 you deal with that question, or does he need to rephrase it
8 a little?

9 THE WITNESS: Well, I -- it's -- I guess I have to
10 ask him to do the question again because I was trying to
11 follow him. I think he asked me two questions is the
12 problem, and I have --

13 JUDGE SIPPEL: We'll sustain the objection.

14 MR. COLE: I'll be happy to reframe, Your Honor.
15 I apologize to yourself and the witness. Again, this is
16 kind of a wrapup on the preliminary line of questions.

17 THE WITNESS: Okay.

18 BY MR. COLE:

19 Q It is just a summary question. I am not trying to
20 inject new issues into this, and I certainly not trying to
21 confuse you. Is it accurate to say that because RBI got the
22 paging, radio, telephone construction permit from the FCC
23 that then makes it a common carrier for FCC purposes, which
24 then in turn makes it a public utility for zoning regulatory
25 purposes that we have been describing this morning or this

1 afternoon, whether they are state or Earl Township.

2 A Okay. I don't think that is our position, in
3 that our position is that, obviously, we are a broadcaster.
4 And we were told by Earl Township that under their zoning
5 laws, we are a public utility. We relied upon that.

6 After that reliance, we got into a dispute on
7 whether or not that was still accurate. If we weren't then
8 when we obtained a common carrier license for our
9 subcarriers, that would in fact make Reading a common
10 carrier for the purposes of their subcarriers. I'm not
11 saying they are a public utility totally, but in terms of
12 their subcarriers being a common carrier, it is our legal
13 opinion, or the legal opinion of our counsel, that under
14 Pennsylvania law, we qualify as an entity as a public
15 utility, and therefore are entitled under Pennsylvania law
16 and under the zoning laws of Earl Township to be able to
17 construct the tower in any zone, and again still having to
18 meet the other requirements of building codes and so on.

19 Q Okay, fine. But that is really -- I believe what
20 you just said -- in effect a fallback position because your
21 primary position is in 19 -- well, I'm sorry. Let me --
22 I'll withdraw that question. Let me ask you a threshold
23 question. You mention that you had gotten, I believe,
24 written opinions from Earl Township about zoning?

25 A They wrote us a letter and told us that under

1 their zoning law, we were a public utility, and therefore to
2 go ahead and build.

3 Q And that was before 1997. Is that correct?

4 A Yes.

5 Q Do you know what date it was?

6 A No. It was clear back in the beginning. I think
7 it was in 1992, '93, somewhere in there. It could have been
8 back in '91.

9 Q Would that -- strike that. Now I believe this
10 morning you testified there were two opinions, one from the
11 solicitor and one from the, I believe, board of supervisors.
12 Am I correct?

13 A That was correct.

14 Q They were both consistent?

15 A That is correct.

16 Q And they both said that RBI is a public utility.

17 A That is correct, for -- in terms of their zoning.

18 Q Did RBI solicit those opinions?

19 A We did in connection -- in fact, Mr. Mercer, who
20 was our bankruptcy counsel, solicited those with Network
21 Communications, which was a company we were dealing with in
22 terms of the construction of the tower.

23 Q And is it correct that Network Communications was
24 going to own the tower and RBI was just going to be leasing
25 on that tower?

1 A That is correct.

2 Q So this is not a tower in 1991 that RBI was
3 proposing to build?

4 A Well, if RBI was not a tenant on the tower,
5 Network Communications would not have been able to build it.

6 Q But my question was, is it correct that RBI was
7 not proposing to build the tower that was proposed to Earl
8 Township in 1991?

9 A No. I don't think that is accurate. The actual
10 letters, I think, were addressed to Network Communications.
11 But RBI had been in the process of acquiring land and
12 entering into agreements to purchase land.

13 We were negotiating with Network Communications to
14 build the station, but RBI prior to that time had tried to
15 put it together and has since that time been putting it
16 together. But Network Communications was in terms of their
17 interest looking at building the tower and leasing it back
18 to us.

19 Q Leasing space on that tower. Is that correct?

20 A That is correct.

21 Q Leasing space to other tenants. Is that correct?

22 A That is correct.

23 Q And to your knowledge, did Network Communications
24 hold the tower out to Earl Township as a proposed microwave
25 transmission tower?

1 A Microwave transmission tower. I'm not aware of
2 that. That could have happened. But I believe very
3 specifically it was a broadcast tower that they were talking
4 about. But it could have -- they could have included
5 microwave tenants on it.

6 Q Now isn't it really true, contrary to what you
7 testified today, Mr. Parker, that neither the Earl Township
8 solicitor nor the Earl Township board of directors held in
9 any respect that RBI is in fact a public utility company
10 within the meaning of whatever relevant zoning laws may
11 apply?

12 A Are you asking me if I lied?

13 Q Yes, that is correct.

14 A No, I did not.

15 MR. COLE: Okay. Your Honor, may I approach the
16 witness?

17 JUDGE SIPPEL: You may.

18 MR. COLE: And I beg the Court's indulgence
19 because it turns out, when I opened my folder, I only had
20 four copies of this. And so I will provide a copy to the
21 witness, a copy to Your Honor. If we end up marking it and
22 offering it, I would propose to you we withdraw a copy and
23 have a copy of it provided to the reporter.

24 JUDGE SIPPEL: I'll give you my copy for the
25 reporter when -- if it comes to that.

1 MR. COLE: Okay. No. I would propose to -- I
2 just wanted to copy it so everyone can have one here.
3 Unfortunately, can I ask -- I would be happy to share mine
4 with Jim, with Mr. Shook, or -- what I have handed the
5 witness, Your Honor, is a document 15 pages in length.

6 The first page goes a caption entitled, "Earl
7 Township, Plaintiff, versus Reading Broadcasting, Inc.,
8 Defendant, in the Court of Common Pleas of Berks County,
9 Pennsylvania, No. 96-11187 Civil Action-Equity." And it is
10 entitled, "Stipulated Facts."

11 And page 13 is the signature page, which bears the
12 signatures of both counsel for plaintiff and counsel for
13 defendant. And again, counsel for the defendant in this
14 case, according to the caption, is Reading Broadcasting,
15 Inc.

16 Mr. Parker, I would like you to take a look at
17 this in particular. I will be directing your attention to
18 paragraphs 7 and 8, which I believe contain the entire text
19 of the letter from the township solicitor of Earl Township
20 dated April 5, 1991, concerning the then proposed tower, and
21 the text in paragraph 8 of the letter dated April 17, 1991,
22 from the Earl Township board of supervisors.

23 Feel free to peruse the entire document or such
24 portions as you feel comfortable with. And then with
25 particular attention to paragraph 7 and 8, I would like you

1 to direct the Court's attention to where in paragraph 7 and
2 8 the -- either the solicitor or the board of supervisors or
3 both held that Reading Broadcasting, Inc. is a public
4 utility within the meaning of whatever relevant zoning laws
5 may apply.

6 JUDGE SIPPEL: So we are reading paragraph 7 and
7 8?

8 MR. COLE: 7 and 8. But I don't want to restrict
9 the witness, obviously, but, yes, 7 and 8, I believe --

10 JUDGE SIPPEL: That's the focus. That's the
11 focus.

12 MR. COLE: That's correct, Your Honor.

13 JUDGE SIPPEL: Let's go off the record while we
14 read.

15 (Off the record)

16 JUDGE SIPPEL: Back on the record.

17 THE WITNESS: Can I have him restate the question,
18 please.

19 BY MR. COLE:

20 Q Sure. My question is could you please direct the
21 Court's attention to precisely where it is in either the
22 letter quoted in paragraph 7 of the document I provided to
23 you or the letter quoted in paragraph 8 of that document,
24 precisely where it is in either of those two documents that
25 the township, Earl Township, advised you that Reading

1 Broadcasting, Inc. is a public utility within the meaning of
2 the relevant zoning rules and regulations?

3 A Well, again, I have to tell you that what you
4 presented here are the stipulated facts in the case. And
5 I'm not sure that these are the complete letters. They may
6 or may not be.

7 I frankly -- it has been a long time. But the
8 issues being litigated are the very issues you are asking
9 the question about, and that is whether or not the letters
10 were of sufficient strength for RBI to have relied upon
11 them, and secondly, whether or not we are now a public
12 utility. So --

13 Q Mr. Parker, let me stop you right there because
14 you stopped answering my question some time ago. Let me ask
15 you the question again.

16 You have testified repeatedly today, both this
17 morning and this afternoon, that Earl Township stated in
18 writing on at least two occasions that RBI is a public
19 utility within the meaning of the relevant zoning
20 provisions. And I am asking you to read -- to point to the
21 Court -- point out to the Court where in these two letters
22 that statement is made.

23 A And again, I guess I am saying -- I understand
24 your question. But you haven't provided me the letter. You
25 have provided me a document entitled "Stipulated Facts,"

1 which is an agreement between Earl Township and Reading
2 Broadcasting as to what the stipulated facts are in order to
3 avoid having to litigate the stipulated ones.

4 The very question you are asking me is what is
5 being litigated. And I would need the entire letter in
6 front of me to answer your question properly.

7 MR. COLE: No problem. Your Honor, may I approach
8 the witness?

9 JUDGE SIPPEL: Sure.

10 MR. COLE: Unfortunately, I only have two copies.
11 I only have one copy of each of the two letters. But -- and
12 I certainly invite counsel to review them if they would
13 like. But they are, I believe, textually identical to that
14 which appears in paragraphs 7 and 8. And if it will make
15 Mr. Parker more comfortable, I present them in order.

16 JUDGE SIPPEL: Now these are the -- these are the
17 full texts of the letters that appear in paragraphs 7 and 8.

18 MR. COLE: That is my understanding, Your Honor,
19 although again, I think -- and I should just point out,
20 Mr. Parker, in his previous statement, suggested that I had
21 stipulated -- that I had entitled this document, "Stipulated
22 Facts."

23 This is a document which appears -- I took it from
24 the files of the Court of Common Pleas in Berks County, and
25 this is the way it appears in the court records. And this

1 is a document as the parties to that litigation had prepared
2 it and filed it with the court.

3 And I presented it just by way of explanation,
4 Your Honor. I presented it as the stipulated facts rather
5 than the letters because -- for a couple of reasons. First,
6 the stipulated facts were a little bit easier to read than
7 the copies of the letters, which I got from the court.

8 And secondly, since this is a document which has
9 been stipulated by Reading Broadcasting, Inc., I thought
10 there would be limited concern about the reliability of the
11 statements made therein, at least as far as RBI was
12 concerned.

13 JUDGE SIPPEL: Thank you.

14 (Witness examined document)

15 THE WITNESS: In paragraph 3 of the letter from
16 Parish (phonetic) dated April 5, 1991, to Mr. Marvin Mercer,
17 he outlines in that letter what he understands to be the use
18 that RBI will put to the tower.

19 In paragraph 4, he indicates that without trying
20 to respond to all the what ifs, he sets forth the following
21 opinion. He outlines his understanding of the law of the
22 township and of the state, and that under that basis he was
23 going to recommend that in fact we would get a -- I think he
24 uses -- he also identifies the use of ownership.

25 The word "use" is what is important rather than

1 ownership of the structure, which RBI was obviously
2 interested in because we were proposing that Network
3 Communications build a tower and release it back to us.

4 He says, "I feel" -- he said, "Therefore, I will
5 recommend to the supervisors and zoning officers that the
6 construction of the tower be allowed without requiring a
7 building permit," and outlines the conditions on that. And
8 I believe that that does in fact constitute his opinion that
9 we fell within the public utility definition then in
10 existence in the state of Pennsylvania.

11 He indicated to the court at the trial that I
12 described yesterday to Your Honor that in fact that was his
13 opinion then, and his opinion has now changed. So I
14 believe that he, too, believed that this letter -- in this
15 letter, he had told us we were a public utility.

16 BY MR. COLE:

17 Q Well, you will agree with me, will you not,
18 Mr. Parker, that the language, "Reading Broadcasting, Inc.
19 is a public utility," does not appear in this letter?

20 MR. HUTTON: I object. It is an argumentative
21 question. The letter speaks for itself.

22 JUDGE SIPPEL: The document will speak for itself.

23 THE WITNESS: Secondly, the letter is signed by --
24 and I do not believe this is a complete copy of the letter.
25 The letter that I referred to was signed by every member of

1 the Earl Township board. This letter is only signed by the
2 chairman. So I'm not sure whether you don't have a complete
3 copy of the letter, or whether this is a different letter.

4 JUDGE SIPPEL: Is it April 5 or April 17?

5 THE WITNESS: This is the April 17th letter. The
6 letter that I referred to by the board of supervisors was
7 signed by all of them.

8 BY MR. COLE:

9 Q Do you recall the date of the letter that you
10 are --

11 A This may be the letter. You just may not have a
12 second page with their signatures. I'm not saying that you
13 are not accurate. I'm just saying this isn't the letter I
14 recall because of a lack of other signatures. But let me
15 read it.

16 (Witness examined document)

17 JUDGE SIPPEL: Off the record.

18 (Off the record)

19 THE WITNESS: I think if you will look at it,
20 first of all, it is the chairman again addressing
21 Mr. Mercer, telling him that Network Communications can
22 construct a tower without a building permit, that the tower
23 must be primarily intended now and in the future for the use
24 of the public utility company as set forth in previous
25 correspondence by their solicitor.

1 And I'm sure that refers to the April 5th letter
2 of that solicitor to Mr. Mercer, and recognizes ancillary
3 uses outside that definition, and that again the tower owner
4 must submit to the zoning officer for their review the
5 things that I outlined earlier.

6 I believe that is also the recognition on the part
7 of Earl Township that Reading Broadcasting fell within those
8 definitions at that time.

9 BY MR. COLE:

10 Q Is it not equally likely that -- strike that.

11 Refer, please, to paragraph B on page -- it is on
12 page 4 of the stipulated facts, the paragraph B of the
13 letter, where it refers to ancillary use. You just
14 testified about that.

15 What do you understand the board of supervisors
16 intended to mean by the term "ancillary use by others"?

17 MR. HUTTON: Objection. I don't know if the
18 witness can speak for the state of mind of the board of
19 supervisors.

20 JUDGE SIPPEL: Well, he can -- he seems to be
21 familiar with the subject matter, and perhaps he can do
22 something with the question.

23 You were about to answer? For the time being, I'm
24 overruling the objection.

25 THE WITNESS: The -- let me go back and read

1 specifically what was said there.

2 (Witness examined document)

3 THE WITNESS: They are simply saying, as I read
4 that, that uses by others outside that definition is
5 permitted, but you have to have at least one person within
6 that definition to utilize the tower.

7 BY MR. COLE:

8 Q And what is the definition that you were talking
9 about?

10 A The public utility.

11 Q So is it not equally likely that the board of
12 supervisors was advising Mr. Mercer that it would be
13 permissible to build a tower and lease some space on it to
14 WTVE as long as the rest of the tower was primarily
15 intended, now and in the future, for the use of a public
16 utility company, that is to say a nonbroadcast public
17 utility company?

18 A I do not believe that is the case. I don't
19 believe that line of reasoning has been presented by Earl
20 Township or by RBI or by anyone else in the case.

21 Q Let me refer you to the first paragraph. It is
22 paragraph 7, the first paragraph that says "solicitor's
23 letter," which introduces the overall situation. And it
24 states specifically in the second sentence, and I'll quote,
25 it reads, "All of the above revolve around my letter of

1 April 7, 1989, which" -- and I'll add parenthetically,
2 predates the April 5, 1991, letter by two years, concerning
3 a proposed microwave transmission tower.

4 Do you see that language there?

5 A You said in --

6 Q It is in paragraph 7, page 2.

7 A Yes, that is true, yes.

8 Q And I have quoted that accurate. Is that correct?

9 A That is correct.

10 Q Do you know what Mr. Parish was referring to when
11 he referred to the proposed microwave transmission tower?

12 A Actually, it was a cellular telephone tower. But,
13 yes, I do know what he was talking about.

14 Q And could you tell us what he was talking about,
15 to your knowledge?

16 A He was talking about a tower in Brenda Groff's
17 back yard. And since he was both the city solicitor and
18 Brenda Groff's attorney, he had rendered an opinion that in
19 fact she didn't have to have zoning in Earl Township for a
20 cellular tower in her back yard.

21 Q Is Brenda Groff the landowner -- strike that.

22 Did Ms. Groff own the property that was originally
23 specified in RBI's construction permit in 1991 or
24 thereabouts?

25 A That's correct. And when we switched from the

1 Groff property to Fancy Hill, her attorney, who was city
2 solicitor, changed his opinion on whether we were a public
3 utility or not.

4 MR. COLE: Your Honor, I have no further
5 questions. Oh, strike that. I have no further questions.
6 But I think since we have had extensive testimony about the
7 stipulated facts, I would propose to mark this as Adams
8 Exhibit 41. And if I may withdraw a copy for the reporter,
9 get it copied overnight and distribute it tomorrow?

10 JUDGE SIPPEL: Let's see. Well, yes. Well, let's
11 follow the procedure. We will mark this for identification
12 as Adams Exhibit 41. And this is a -- how many pages is it?

13 MR. COLE: A 13-page document entitled "Stipulated
14 Facts."

15 JUDGE SIPPEL: A 13-page document entitled
16 "Stipulated Facts" from the Court of Common Pleas of Berks
17 County, Pennsylvania. That will be marked by the reporter
18 as Exhibit 41 for identification.

19 (The document referred to was
20 marked for identification as
21 Adams Exhibit No. 41.)

22 MR. COLE: And, Your Honor, I offer that into
23 evidence on behalf of Adams.

24 JUDGE SIPPEL: Any objection? Hearing none, it is
25 received into evidence --

1 MR. COLE: Thank you, Your Honor.

2 JUDGE SIPPEL: -- as Adams Exhibit 41.

3 (The document referred to,
4 previously identified as Adams
5 Exhibit No. 41, was received
6 in evidence.)

7 MR. COLE: May I request permission to withdraw a
8 copy, which I will take back to the office tonight, copy it
9 multiple times, and issue it to the reporter and to anybody
10 who doesn't have one already, which would be Mr. Shook, I
11 believe.

12 JUDGE SIPPEL: I gave my copy to the reporter just
13 now.

14 MR. COLE: Thank you, Your Honor.

15 JUDGE SIPPEL: I will expect a copy sometime
16 tomorrow.

17 MR. COLE: Oh, and Your Honor, I am approaching
18 the witness to take back the two letters which he was
19 looking at, which again I believe they are -- that it would
20 arguably be redundant to put them in because we have the
21 text in.

22 But since Mr. Parker did indicate some hesitation
23 about whether or not the full text of the letters were set
24 forth in the stipulated facts, I would also propose to have
25 these marked for identification as --

1 JUDGE SIPPEL: I'll tell you what I am going to do
2 with that. I'll let -- we'll leave -- as long as the record
3 is open this week, I'll give Reading's counsel an
4 opportunity to compare the letters with the Exhibit 41. And
5 if he feels there is any inconsistency, we can come back
6 with it at a later time.

7 MR. COLE: Thank you, Your Honor. So I will not
8 identify it in at this time.

9 JUDGE SIPPEL: No, no need to. The witness has
10 seen it.

11 MR. COLE: Thank you, Your Honor.

12 JUDGE SIPPEL: Okay. I mean, there is a
13 presumption of regularity when it says a set of stipulated
14 facts that is going before the court in Berks County,
15 Pennsylvania.

16 MR. COLE: That is what I was assuming.

17 JUDGE SIPPEL: If there is something wrong, we
18 want to know about it. Probably Berks County court wants to
19 know about it. A lot of people want to know about that.

20 Okay. Redirect. You don't have anything on this
21 point, Mr. Shook. You are all finished?

22 MR. SHOOK: I'm done.

23 JUDGE SIPPEL: Why don't we do this. It is
24 quarter to 3:00, almost 14 minutes before 3:00. Why don't
25 we take a break until 3:00, and then we can pick up on

1 redirect.

2 MR. HUTTON: That would be fine. Thanks.

3 JUDGE SIPPEL: With that, we are in recess. Thank
4 you.

5 (Recess)

6 JUDGE SIPPEL: Let's go on the record.
7 Mr. Hutton.

8 REDIRECT EXAMINATION

9 MR. HUTTON: Thank you. First of all, Your Honor,
10 Mr. Bechtel and I have agreed to stipulate to some
11 corrections to Adams Exhibit 39 and Adams Exhibit 40.

12 JUDGE SIPPEL: Cooperation is most appreciated.
13 Do you want to do them now?

14 MR. HUTTON: Yes. I think we ought to.

15 JUDGE SIPPEL: Fine, sure.

16 MR. HUTTON: On Adams Exhibit 39, first off, where
17 it says, "At time of 1993 annual FCC form 323," it should
18 say "annual certification."

19 JUDGE SIPPEL: I'm sorry. I'm not following you.
20 39 is the members of the board of directors of Reading?

21 MR. HUTTON: Yes. The fourth entry is entitled
22 "At time of 1993" --

23 JUDGE SIPPEL: I see.

24 MR. HUTTON: I would strike "FCC form 323," and
25 substitute "certification."

1 JUDGE SIPPEL: What would it say, "FCC
2 certification," or just --

3 MR. HUTTON: "Annual certification."

4 JUDGE SIPPEL: "Annual certification." Okay. Now
5 will you assist the reporter in making these changes, too?

6 MR. HUTTON: Sure. The same change would apply to
7 1995.

8 JUDGE SIPPEL: Annual certification. Got it.

9 MR. HUTTON: All right. For 1997, there are two
10 additional directors, Tietbohl -- that is T-i-e-t-b-o-h-l.

11 JUDGE SIPPEL: Now would these go after the Busby,
12 Rogow, and then there would be two more --

13 MR. HUTTON: Yes.

14 JUDGE SIPPEL: -- after Rogow?

15 MR. HUTTON: Yes.

16 JUDGE SIPPEL: And that would be who?

17 MR. HUTTON: Tietbohl, which is T-i-e-t-b-o-h-l.

18 JUDGE SIPPEL: Yes.

19 MR. HUTTON: And Long, L-o-n-g.

20 JUDGE SIPPEL: All right. Now that still reads,
21 "Annual FCC form 323," however, right?

22 MR. HUTTON: Yes, yes. And then for 1998, Clymer,
23 Cohen, Busby, and Rogow are stricken.

24 JUDGE SIPPEL: Four: Cohen --

25 MR. HUTTON: Clymer, Cohen, Busby, and Rogow. Are

1 stricken. And Linton and Gerber are substituted.

2 JUDGE SIPPEL: Linton, L-i-n-t-o-n, and Gerber,
3 G-e-r-b-e-r, right?

4 MR. HUTTON: Yes.

5 JUDGE SIPPEL: And that is for at the time of the
6 1998 annual FCC form 323?

7 MR. HUTTON: Yes.

8 JUDGE SIPPEL: Okay. Anything else after that?

9 MR. HUTTON: No.

10 JUDGE SIPPEL: And move on to 40?

11 MR. HUTTON: Yes. On Exhibit 40, we have already
12 noted a date change for the third entry, which reads, "at
13 time of FCC form 323 filed April 16, 1992," it should read.

14 MR. BECHTEL: That's right.

15 MR. HUTTON: Then on the next line, strike "FCC
16 form 323" and substitute "certification."

17 JUDGE SIPPEL: Okay.

18 MR. HUTTON: The same change for 1995.

19 JUDGE SIPPEL: Annual certification, all right.

20 MR. HUTTON: And then for 1999, add Rendon,
21 R-e-n-d-o-n.

22 JUDGE SIPPEL: After McCracken?

23 MR. HUTTON: Yes.

24 JUDGE SIPPEL: R-e-n-d-o-n?

25 MR. HUTTON: As senior executive vice president.